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Indian depredations.

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## INDIAN DEPREDACTIONS.

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JUNE 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

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Mr. MAHON, from the Committee on War Claims, submitted the following

### REPORT.

(To accompany S. 3171.)

The Committee on War Claims, to whom was referred the bill (S. 3171) to refer certain claims for Indian depredations to the Court of Claims, submit the following report:

The bill authorizes the Court of Claims to investigate and determine these claims (five in number) on the principles upon which awards were made in similar cases by the commissioners under the terms of the act approved February 16, 1863 (12 Stat. L., p. 652).

The claims embraced in this bill were not filed before the commission above mentioned for reasons assigned in the appendix to this report. There is no question but these claims are identical in character with the other claims of Minnesota settlers which were paid in 1863 by the commission appointed under the terms of the act of February 16, 1863.

Your committee is of the opinion that if the claimants have just claims they ought to be paid, and there is no reason why the proper facilities should not be afforded them to establish their validity.

Your committee recommend the passage of the bill, and attach hereto a statement in reference to these claims and ask that it be printed as an appendix to this report.

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### APPENDIX.

#### MATTHEW WRIGHT.

Matthew Wright, a citizen of the United States, aged 89 years, and residing at Fergus Falls, Otter Tail County, Minn., in a dependent condition, removed from Wisconsin to Otter Tail County, Minn., in 1858, and settled on land at the Red River of the North, in township 132, range 43, which he purchased of the United States under the preemption laws. He took with him considerable live stock, hauled sawed lumber for some of his buildings from St. Cloud, a distance of over 100 miles, served as postmaster, kept a hotel, cultivated a farm, and with the help of several grown sons and with hired help he had, by the summer of 1862, constructed several buildings on his farm, built and run a ferry, and built a dam and sawmill. On the 25th of August, 1862, he and his family were driven from his home by the Sioux Indian

massacre. He took refuge at Fort Abercrombie, which he helped to defend, and in defense of which one of his sons was killed by the Sioux Indians. The Indians burned his house, barn, stable, and some other property, but did not destroy his mill. The timber composing his mill was taken in July, 1865, by United States mounted troops for building a Government stable, and no payment has ever been made for the same.

The commissioners under the act of February 16, 1863, to adjust the damages for depredations by the Sioux Indians, awarded him \$1,350. Said commissioners made their final report November 30, 1863, and they received no claims after September 1 of that year. (See Ex. Doc. No. 58, Thirty-eighth Congress, first session, p. 3.) Of course the item composing the present claim was not before said commissioners, from the fact, as before stated, that the mill was not destroyed until July, 1865. In 1868 he presented a petition to the United States Senate for additional compensation for the injuries done to his property by the Indians, and also for the mill property. January 28, 1874, the Senate Committee on Claims reported adversely on his claim on the ground that the award of \$1,350 by the said commissioners ought to be conclusive in respect to injuries and depredations committed by the Sioux Indians, and, in respect to the mill property taken by troops, because there was not sufficient evidence as to value.

The claim was presented to the Court of Claims under the Indian depredation act of March 3, 1891, but dismissed on the ground that the mill property was not taken by Indians.

The act of February 16, 1863, under which said commissioners awarded an aggregate amount of \$1,370,374 in satisfaction of 2,635 claims, covered just such claims as the present one. That act authorized payment of damages for depredations not only by Indians, but for depredations "by the troops of the United States." The claimant's mill property was taken by troops of the United States in the very same Indian war that those 2,635 claims originated in, though two years after said commissioners had concluded their work, and there is no reason in principle and justice why he should not be treated the same as other Minnesota settlers who suffered similar depredations.

The proofs taken in 1868 in support of the claim are on file in the Court of Claims.

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#### A. M. DARLING, ADMINISTRATOR.

In August, 1862, Andreas Darling, a native of the State of New York, was the head of a family and a settler on the public lands under the preemption law in Douglas County, Minn., and had raised and partly harvested a crop. In the latter part of that month he was driven from his home by the Sioux Indian outbreak and massacre and had to abandon his crops and some of his live stock. He the same autumn removed to the State of Missouri, where he was residing when the claims of settlers arising from said Sioux Indian outbreak were adjudicated by the commissioners appointed under the act of February 16, 1863, and he failed to present his claim to said commissioners. He was killed by "bushwhackers" in Missouri in 1864. His widow and children afterwards returned to their home in Minnesota, and in 1868 she presented a petition in the United States Senate for payment of the crops and live stock alleged to have been lost by said Indian outbreak, but the committee reported adversely for the reason that the claim was not presented to the said commissioners in 1863. The claim was presented to the Court of Claims under the Indian depredation act of March 3, 1891. That act, however, gave the Court of Claims jurisdiction only of claims for depredations committed by Indians "in amity with the United States."

The court held that the Sioux Indians who committed the depredations in this case were not "in amity" with the United States, and dismissed it solely on that ground. The amount, \$1,854, for loss of crops seems large, but the owner was an experienced farmer, 56 years of age, and had cultivated his farm three years. We have the statement of the before-mentioned commissioners under the act of February 16, 1863, (Ex. Doc. 58, Thirty-eighth Congress, first session, p. 16), that "the outbreak occurred in the height of a harvest of unusual abundance and luxuriance." Prices for farm products were at that time high, especially on the frontier and in a locality which said commissioners say (p. 17) "was the theater of an active immigration."

There is no question but this claim is identical in character with the other claims of Minnesota settlers which were paid in 1863 by the commissioners under the act of February 16, 1863. We think that the fact that Darling was living in Missouri, and that the country was in a state of war at the time the said commissioners were in session, may have been a sufficient excuse for his not presenting his claim before them. The original proofs are on file in the Court of Claims.

## FRANK C. DARLING.

Frank C. Darling, aged 66 years, a native of Monroe County, N. Y., and now residing at Deer Creek, Otter Tail County, Minn., was, with his family, driven from his home in Douglas County, Minn., August, 1862, by the Sioux Indian massacre, and in consequence lost property, consisting of live stock, crops, household effects, etc., of the value, as he alleges, of \$1,042. The commissioners appointed under the act of Congress of February 16, 1863, entitled "An act for the relief of persons for damages sustained by reason of depredations and injuries by certain bands of Sioux Indians," fixed a period from April 1 to September 1, 1863, within which claims could be presented for their investigation (see Ex. Doc. No. 58, Thirty-eighth Congress, first session, pp. 3 and 13); but during all of that period claimant was an enlisted man in Company D, First Minnesota Mounted Rangers, United States Volunteers, and as such was then actually engaged in defending the frontier against Indian hostilities, and had no opportunity for presenting a claim before said commissioners. He presented this claim to the United States Senate in 1868, and December, 1873, it was reported on adversely by the Committee on Claims on the ground that the claimant had failed to present it to the before-mentioned commissioners in 1863, and also because the proof in its support was not sufficiently positive.

This claim was before the Court of Claims under the Indian depredation act of March 3, 1891. That act, however, provides for payment only for depredations committed by Indians who were "in amity with the United States." The Court of Claims held that the Sioux Indians committing the depredations in this case were not "in amity with the United States," and dismissed the claim solely on that ground.

This claim is identical in character with the 2,635 claims of Minnesota settlers allowed and paid in 1863 (Ex. Doc. No. 58, Thirty-eighth Congress, first session, p. 21), by the commissioners before mentioned appointed under the act of Congress of February 16, 1863. It is a remnant of claims arising from the Sioux massacre of 1862. There is no good reason why an exception should be made against this claimant. We think the fact that the claimant was an enlisted man in the military service of the United States, defending the frontier against the Sioux Indians at the time said commissioners were hearing such claims, should be taken as reasonable excuse for his failing to bring the claim before them. The proofs taken in 1868 in support of the claim are on file in the Court of Claims.